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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,797	12/20/2001	Ernest Marvin Thiessen	ICANS2/WAB	4804

7590 04/09/2007  
William A. Blake  
Jones, Tullar & Cooper, P.C.  
P.O. Box 2266 Eads Station  
Arlington, VA 22202

EXAMINER
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CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3692

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/022,797

Applicant(s)

THIESSEN ET AL.

Examiner

Siegfried E. Chencinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) -  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**1. Claims 1 and 16 are rejected** on the ground of nonstatutory obviousness-type

double patenting as being unpatentable over claims 1 and 20 of U.S. Patent No.

5,495,412. Although the conflicting claims are not identical, they are not patentably

distinct from each other because claim 1 in the application and claim 1 in the patent are

each concerned with a computer-based method for assisting at least two parties in a

negotiation making use of at least one programmed computer. Claim 16 of the

application and claim 20 of the patent are each concerned with a computer-based

method for assisting at least two parties in a negotiation making use a plurality of

programmed computers, each independent from each other and each connected to a common separate central computer located at a neutral site. Each claimed invention makes use of the Pareto optimal principle.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2. Claims 1-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over SAIAS et al. (US Pre-Grant Publication 2003/0014379 A1, hereafter SAIAS) in view of Wikipedia (<http://en.wikipedia.org/wiki/Pareto>).

**Re. Claims 1-17**, SAIAS discloses a comprehensive method and apparatus for operations management which has the reliability and adaptability to handle failures and changes respectively within the economic environment. The present invention presents a framework of features which include technology graphs, landscape representations and automated markets to achieve the requisite reliability and adaptability. SAIAS discloses the use of Pareto analysis and the identification of Pareto optimal solutions ([0005]). Further, AIAS discloses business negotiations of prices ([0005]) and the application of algorithms to assist operations management with Pareto Optimal solutions ([0271]). Paragraphs [0317], [0321], [0323], [0323] and [0325] disclose multi party and multi issue negotiations using computer assistance to achieve Pareto optimal solutions. [0317] discloses the equivalent of blind bidding.

Vilfredo Pareto developed Pareto analysis and the related concept of Pareto efficiency and Pareto optimal solutions. Mr. Pareto died in 1923, so the Pareto analysis and Pareto efficiency date to before 1923 (). **Pareto efficiency**, or **Pareto optimality**, is an important notion in **neoclassical economics** with broad applications in **game theory**,

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**engineering and the social sciences.** Given a set of alternative allocations and a set of individuals, a movement from one allocation to another that can make at least one individual better off, without making any other individual worse off, is called a **Pareto improvement** or **Pareto optimization**. An allocation of **resources** is **Pareto efficient** or **Pareto optimal** when no further Pareto improvements can be made (Wikipedia, February 26, 2007). SAIAS implicitly discloses the parties communicating with the central negotiations computer, including the transmission of preferences, the processing of preference information by the central computer, and iterations of this process thereof, declaration/presentation of tentative Pareto optimal solutions to the parties, and continuing the process until the parties agree. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have seen it as obvious to have combined the disclosures of SAIAS, and Wikipedia in order to establish a computer assisted method for assisting at least two parties involved in a negotiating problem with any number of issues toward achieving an optimal mutually satisfactory agreement, motivated by a desire to provide a comprehensive management decision support method which which has the reliability and adaptability to handle failures and changes respectively within a given operating environment (AIAS, page 2, [0017]).

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Richard E. Chilcot, can be reached on (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks, Washington D.C. 20231***

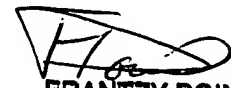
or Faxed to (571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

or Faxed to (571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

April 2, 2007

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
